

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 937 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHEKHARBHAI @ CHANDRASHEKHAR KISHANSING RAJPUT

Versus

COMMISSIONER OF POLICE

Appearance:

MR ASIM J PANDYA for Petitioner

RULE SERVED for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 15/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 24th September, 1998 made by the Commissioner of Police, Ahmedabad City under the powers

conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. Alongwith the order of detention, the petitioner has also been served with the Grounds of Detention. It appears that one offence being CR No. 373 of 1998 has been registered against the petitioner for violation of prohibition law. A large quantity of country liquor was recovered from the petitioner. Besides, the sponsoring authority has also recorded statements of two witnesses which indicate that the petitioner has been indulging into bootlegging activities and his activities are detrimental to the maintenance of public order. The identity and other particulars of the witnesses have been withheld.

4. The order of detention has been challenged on the grounds : (a) that the petitioner is a resident of Ujjain in Madhya Pradesh and does not know Gujarati language. However, some of the documents furnished alongwith the grounds of detention were in Gujarati, and even after the petitioner's request to furnish Hindi translation of the said documents, the same have not been furnished. Without the due translation in Hindi, the petitioner has not been able to make effective representation against the order of detention; (b) the order of detention has been made for extraneous consideration which is manifest from the fact that the offence in question has been registered on 23rd September, 1998, the statements of witnesses have also been recorded on 23rd September, 1998 and immediately on 24th September, 1998 without verifying the genuineness of the statements given by these witnesses, the impugned order has been made. (c) The representation made by the petitioner has not been considered at all.

5. The petition has been contested by the learned AGP Mrs. Hansaben Punani. She has relied upon the affidavit made by the detaining authority as well as the original record of the matter. She has submitted that the representation made by the petitioner was of 4th December, 1998 and was received by the State Government on 10th December, 1998. On the same date, it was considered and rejected. The decision was also communicated to the petitioner. The statement is also verified by Mr. Pandya, the learned advocate for the petitioner, by perusing the records. Besides, Mrs. Punani has further submitted that even the brother of the detenu had made a representation on 6th October, 1998 which was received by the State Government on 9th

October, 1998. That too was immediately considered and since 10th & 11th October, 1998 were holidays, was decided on 13th October, 1998 and the decision was also communicated. I have perused the original record of the matter. It appears that upon offence having been registered against the petitioner, concerned Police Inspector has made further inquiries on the same date and the statements of witnesses were recorded by him. The genuineness of the said statements were also examined by him by making due investigation. Thereafter, the proposal was made by him. After receiving the said proposal, the detaining authority, the Commissioner of Police, had instructed to call the witnesses before him. Accordingly, the witnesses were summoned before the Commissioner of Police and the Commissioner of Police had on 24th September, 1998, personally examined the statements given by the witnesses. He has also recorded his personal satisfaction of the petitioner being a bootlegger and his activities being prejudicial to the public order and public health and all the statements of witnesses being genuine and the apprehension of retaliation voiced by them to be genuine. Besides, the order of detention and the grounds of detention were served upon the petitioner on 25th September, 1998. He had stated that he had been residing in Ahmedabad for 16 years and after going back to Ujjain, he had been in Ahmedabad for last 25 days. He had also stated that he had studied upto 8th Standard and he was able to read, speak and understand Gujarati language. The said receipt has been signed by the petitioner in Gujarati. This leaves no doubt that the petitioner knows Gujarati sufficiently well and he was able to read and understand the contents of the documents which were in Gujarati. The challenge raised on this count is merely an afterthought and is not tenable. The fact that the country liquor is injurious to public health does not require further deliberation and in view of the provisions made under Sub-section 4 of Section 3 of the Act and the explanation thereto, there is no gainsaying that the petitioner has been acting in a manner prejudicial to the maintenance of public order.

For the reasons recorded hereinabove, the petition is dismissed. Rule is discharged.

Prakash*